REMARKS

The Office Action mailed February 6, 2007 considered claims 2-13, 15, and 48-55. Claim 48 was objected to because of the following informalities: steps "(a), (b) and (c)", performed by the *first* computer program, and steps "(a), (b), and (c)", performed by the *second* computer program should be – (a), (b), (c), (d), (e), and (f) – to aid in clarity with prosecuting the application. Claims 1-13 and 15-47 were rejected under 35 U.S.C. 103(a) as being unpatentable over Keller et al. (US 6,662,312) hereinafter *Keller* on view of Laviolette et al. (US 6,779,134) hereinafter *Laviolette*.[1]

As a preliminary matter, applicants would like to thank the examiner for the courtesies extended during the interview on March 29, 2007. The substance of that interview is included in the remarks below. During the interview, applicants presented various amendments and arguments.

By this paper, claims 2, 5, 6, 8, 9, 11, 15, 48, 51, 52, 54, and 55 have been amended.[2] Claims to 3-13, 15 and 48-55 are pending in the application. Claims 48 and 51 are the only independent claims pending in the application.

The application is generally directed to a software testing system that tests software components on a variety of platforms and operating systems. Embodiments allow for software to be tested on a number of different test clients where testing is centrally controlled. This allows for testing to be accomplished quickly by utilizing the different test clients. Additionally, the central control helps to maximize resources by automatically assigning test jobs to available clients.

As presently amended, each of the claims now recites that test clients are selected based on imaging of available clients, with a preference for clients that can be used without reimaging while still allowing for reimaging if needed. In particular, each claim now recites "first determining if any pending test packets can be selected for the available client such that a pending test packet can be run on the available client without reimaging the available client, and

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[1] Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

[2] Support for the amendments can be found throughout the specification, but with particularity at page 22, line 7 through page 23, line 10, and page 25, line 15 through page 26, line 10.

if a pending test packet can be selected for the available client such that the test packet can be run on the available client without reimaging the available client, selecting the test packet for the available client and automatically assigning a test job with tasks from the selected test packet to the available test client; but if a pending test packet cannot be selected for the available client such that the pending test packet can be run on the available client without reimaging, then determining if a pending test packet can be selected for the available client such that the pending test packet can be run on the available client with reimaging, and if the pending test packet can be run on the available client with reimaging then selecting the test packet for the available client and automatically assigning a test job with tasks from the selected test packet to the available test client."

The image includes a group (platform and language) and applications on a test client. See applicants' disclosure at page 22, lines 11-14 and page 2, lines 22-23. Thus, the claims allow for first determining if tests can be selected for an available client using existing platform, language, and applications on the test client, and if so, assigning tests to the client based on the existing image. If not, a determination can be made if test can be run if the test client is reimaged and if so, assigning test to the client based on the ability to reimage the client.

Neither Keller nor Laviolette disclose this functionality. For example, Keller does not disclose the ability to reimage test clients. In particular, it appears that the images of Keller are static to a specific client and that the testing performed is intended to accomplish testing of multiple platforms with a single test. See e.g. Keller at col. 2, lines 37-40 and col. 4, lines 61-63. Specifically, Keller touts the deployment of images across multiple platforms. See Keller at col. 4, line 63 through col. 5, line 2. These deployed images are used to test multiple platforms with a single test, and thus are not reimaged, but rather used as-is. Thus, Keller does not show "determining if a pending test packet can be selected for the available client such that the pending test packet can be run on the available client with reimaging."

Laviolette does not compensate for the deficiencies of Keller. Rather, Laviolette focuses on hardware configurations of test stations. See Abstract lines 1-3. Specifically, Laviolette teaches that to prevent test corruptions, reimaging is performed in every case. See Laviolette at col. 10, lines 44-55. However, the claims recite "*if* a pending test packet cannot be selected for the available client such that the pending test packet can be run on the available client without reimaging, then determining if a pending test packet can be selected for the available client such

that the pending test packet can be run on the available client with reimaging, and if the pending test packet can be run on the available client with reimaging then selecting the test packet for the available client and automatically assigning a test job with tasks from the selected test packet to the available test client." Specifically, determining if a test packet can be selected if the available client is reimaged is only performed if the test packet can't be run without reimaging. Rather than first determining if the test packet can be selected without reimaging and then determining if the test packet can be selected with reimaging, Laviolette simply illustrates reimaging for all test job bundles. Thus, Laviolette omits the recited limitation of "determining if a pending test packet can be selected for the available client such that the pending test packet can be run on the available client with reimaging [if a pending test packet cannot be selected for the available client such that the pending test packet can be run on the available client without reimaging]."
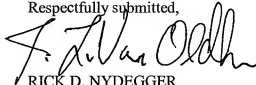
Attention is also directed to amended claims 2 and 52. These claims note that test jobs can be divided into subtasks and the subtask reordered based on dependencies. For example, sub tasks can be run depending on software being loaded. This allows for certain sub-tasks to be performed without the need to perform all tasks in a test packet or a test job. This allows for substasks to be reordered in an efficient way, or to save certain subtasks for later execution if testing of the entire test job would exceed a pre-determined time limit for execution of tasks. In addition to their patentability for the dependence on novel claims 48 and 51 respectively, claims 2 and 52 seem to teach additional elements not taught or suggested by Keller or Laviolette.

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at 801-533-9800.

Dated this 7th day of May, 2007.

Respectfully submitted,

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